

STATE OF HAWAII
Department of Land and Natural Resources

December 11, 2009

Attachment 2

Proposed Hawaii Administrative Rule Amendments Relating to Recreational Renaissance Plan B

Public Hearing Script/ Talking Points

OPENING

- Good evening, my name is _____. This is a public hearing to consider testimony on proposed amendments to the administrative rules of the Department of Land and Natural Resources.
- Before we begin, we will show a short power point on Recreational Renaissance Plan B.
- Everyone should sign the attendance sheet. At this time if you have not already signed in please be sure to do so.
- Anyone who wants to provide testimony should sign up with our staff member at the back of the room.

[Run Power Point of Recreational Renaissance Plan B Overview]

- I hope this overview provided some perspective of how these rule changes fit into an overall comprehensive plan to improve our state recreational areas.

BEGIN HEARING

It is now _____ p. m., November _____ 2009 and the Public Hearing is called to order.

- For those of you who may have just joined us, my name is _____ of the Department of Land and Natural Resources.
- I have been appointed by the Chairperson to function as the presiding officer of this public hearing to consider testimony on the proposed amendments to Hawaii Administrative Rules.
- The purpose of this hearing is to consider amendment of:
 - Title 13, Sub-Title 6, Chapter 146 relating to State Parks;
 - Title 13, Sub-Title 11, Chapters 234-1, 234-3, 234-5, and 241-25 relating to the Division of Boating and Ocean Recreation;
 - Title 13, Sub-Title 5, Chapter 121 and Title 13, Sub-Title 5, Adopt Chapter 126, which will repeal Chapter 125, relating to the Division of Forestry and Wildlife.

Let me explain the procedure for this evening.

This is a formal Public Hearing on the Administrative Rules of the Department of Land and Natural Resources.

- For those of you that have not attended a public hearing before the law requires that I provide an overview of the proposed amendments.

- To help everyone have a chance to speak please make sure you sign in to testify with the DLNR staff member at the entrance.
 - If you decide during the meeting that you would like to testify please speak to the staff member at the back of the room to get on the list.
 - I will call for your testimony in the order in which the names are listed.
 - You may turn in any written testimony you may have prepared.

COPIES OF PROPOSED RULES

Copies of the proposed rule amendments are available at the door this evening. During the course of this hearing, we wish to collect views, comments, and testimonies on the proposed rule amendments.

NOTICE OF PUBLIC HEARING

Notices of tonight's public hearing appeared on Sunday, October 4 2009, in the Star Bulletin, Hawaii Tribune Herald, West Hawaii Today, Maui News, and The Garden Island newspapers. The Notice of Public Hearing as it appeared in the newspapers is posted for your examination and confirmation. Copies of the Notice of Public Hearing is also available for your reference on the table.

PROCEDURES DURING HEARING

In the conduct of tonight's hearing, we will proceed as follows:

- (1) First, I will explain the Administrative Rules, which is required as part of the public hearing process.
- (2) Then, I will call on those who indicated they want to testify. If you want to testify, please speak to the DLNR staff member at the back of the room and your name will be put on the list.
- (3) Please keep your testimonies short and on the subject to allow others an opportunity to participate.
- (4) When given the floor, please state your name and comments clearly. It is important that you do this; otherwise, we may not be able to identify who the speaker may have been.
- (5) If there should be any questions on the Rules, I (we) will remain after the hearing and attempt to address them.
- (6) I would also like to remind everyone that this is not a courtroom, adversarial type proceeding, but a public hearing to gather comments and testimonies. Thus, cross-examination of testifiers or party-to-party rebuttals will not be permitted. In other words, we will not allow any person-to-person arguments during the course of the hearing. We expect that there will be differing opinions and we should all respect them. We want to hear them so we can understand your concerns.

I will proceed with the explanation of the proposed Administrative Rules.

Please refer to your copy of the Rules.

EXPLANATION OF RULES

Division of State Parks, Title 13, Sub-title 6, Chapter 146.

- Purpose is to clarify some definitions and penalties, allow online camping reservations, allow payment by credit card, and allow entry fees at State Parks in general.
- Amendments to definitions, penalties, and other clarifications include:
 - §13-146-2 (Definitions): Changes title and definition of “Archaeological and historical features” to “Historic property and burial sites” to bring definition into conformance with the current state historic preservation law and administrative rules. Changes title and broadens definition of “Motor vehicle” to “Motorized vehicle” to clarify and expand the types of vehicle subject to rules.
 - §13-146-3 (Penalties): Amends penalties section to bring enforcement language into conformance with recent amendments to state law and with standard language used in Department of Land and Natural Resources administrative rules.
 - §13-146-7 (Abandonment of unattended property): Amendments give state parks greater latitude when disposing of abandoned or seized property (e.g., sell, donate).
 - §13-146-10 (d) (Animals): Changes clarify that having or possessing a horse in an undesignated area or without a permit is prohibited.

- §13-146-11 (Historic property and burial sites): Amendments bring language and citations regarding the alteration of historic properties, including burial sites, into conformance with state historic preservation law and administrative rule.
- §13-146-19 (Firearms and other weapons): Amendment prohibits the use or possession of paintball guns in state parks.
- §13-146-40 (Motorized vehicle operation): “Vehicle and motorized bike” change to “Motorized vehicle operation,” specifies that these rules include off highway vehicles such as all terrain vehicles, and further define restricted and designated areas of use.
- The rules are also amended to include some housekeeping and grammatical changes.
- Amendments to user fees, camping and lodging permits, and special use permits include:
 - §13-146-5 (User Fees): Current rule only allows entry fees at Diamond Head State Monument. Amendment allows the Board to set entry fees for state parks in general.
 - §13-146-50 thru 52 (General Provisions; Camping Permits; Lodging Permits): Amends rules to allow overnight accommodation reservations via the Internet, payment by credit card, and authority to charge a service fee.
 - §13-146-54 (Special Use Permits): Amending special use permit section to specifically include “commercial tours.”

**Division of Boating and Ocean Recreation, Title 13, Sub-Title 11,
Chapters 234-1, 234-3, 234-5, and 241-25.**

- Chapter 234-1: Adds that the mooring fee shall be set by categories, schedule A and schedule B.
 - Schedule A shall include existing mooring tenants with an equal increase towards schedule B over a five-year period.
 - Schedule B will apply to all new mooring tenants after the rule takes effect.
- Chapter 234-3: Also defines schedule A and schedule B.
 - Renames schedule #2 to “Schedule A”, which is the current mooring rates.
 - Renames schedule #3 to “Schedule B”, which increases the rate along the catwalk to \$3.47 more than rate in schedule A in all category locations.
- Chapter 234-5: Amends Temporary Mooring rates.
 - Sets temporary mooring fee at \$2.00/per vessel foot per day for a slip and \$1.00/per vessel foot per day on offshore mooring.
- Chapter 241-25: Amends fees and charges for registration, annual renewal, transfers, and duplicate certificates and registration stickers. Current rates are defined by statute; DLNR has authority to set new rates by rule according to statute. The overall change increases fees by \$5.

Division of Forestry and Wildlife's Title 13, Sub-Title 5, Chapter 121
rule regulating the hunting of wildlife on Public Lands and Other Lands.

- The purpose is to allow for the establishment and management of public shooting ranges and to ensure public safety.
- Amendments include:
 - Allowing a broad range of firearms for use at public shooting ranges, except for any of those that are illegal.
 - Allowing a broad range of hunting methods and equipment for hunter safety, education, and public recreation.
 - Authorizing the establishment of agreements or concessions to operate public shooting ranges.

Division of Forestry and Wildlife, Title 13, Sub-Title 5, Chapter 125 and proposed new Chapter 126 rules regulating Wildlife Sanctuaries.

- The Division proposes to repeal the current rule Chapter 13-125 in its entirety and replace it with the new Chapter 13-126.
- Purpose is to provide better management tools for protection of wildlife resources and manage public use and recreational opportunities in wildlife sanctuaries where appropriate for sensitive native wildlife and their habitats in the state.
- The major changes to the rule is to:
 - Take a more holistic approach to the protection of the sanctuaries by providing explicit protection for wildlife and their habitats, including plants, geological features, and cultural and historic resources.

- Add six new wetland or montane sanctuaries to the system. These are Puu Waawaa Forest Bird Sanctuary on Hawaii; Pauwalu Point on Maui; and Hamakua Marsh, Pouhala Marsh, Kawainui Marsh, and Kapapa Island on Oahu.
- Reduce negative impacts to the sanctuaries, including better and more enforceable prohibitions on activities such as camping, the use of vehicles, aircraft, and motors (generators), and abandoned and unattended property.
- These changes do not prohibit fishing and landing in coastal areas and offshore islands where access is allowed along the shoreline below the high water mark.
- Provide a flexible approach to regulate use and access of sanctuaries and portions of sanctuaries, such as allowing access to shorelines for fishing or hiking along designated trails, when these can be allowed without compromise to resources, provide the ability to temporarily close sanctuaries when needed to protect resources, and provide permits for cultural practice. This rule limits visiting hours to daylight hours, closing all sanctuaries at night to prevent disturbance to wildlife, except Kipuka Ainahou.
- Establish guidelines and procedures to permit limited use of certain sanctuaries for commercial purposes such as ecotours and wildlife viewing, and allow assessment of commercial use fees going into the Endangered Species Trust Fund to be used to support sanctuary management.

That concludes our overview of the proposed rule amendments.

BEGIN LISTENING TO TESTIMONY

- At this time, I have the sign up list of persons who want to present testimony on these rules.
- I will now call on each person to testify in the order listed.
- I apologize if any names are mispronounced.
- If you have not signed up to testify, and later decide that you would like to comment, please sign up with the DLNR staff member at the entrance.
- Again, when beginning your testimony do not forget to state your name into the microphone.

[Suggested that you call up the first name and let the next two on the list know they're up next and in what order.]

Examples:

- 1. Mr. X your first, Mrs. Y please be ready to go next and Ms. Z will follow.**
- 2. Ok now we have Mrs. Y, then Ms. Z, and up next Mr. A]**

[After everyone on the list testified]

- Is there anyone here who did not testify and would like to provide comment at this time? [remind them to state their name and present testimony, have staff add them to the list.]

HOW TO PROVIDE COMMENTS AFTER THE MEETING

- Should anyone wish to provide further input after this meeting written testimony/comments will be accepted until Thursday, November 19, 2009.
- Please send them to either our mailing address or e-mail.

Mail: Department of Land and Natural Resources

ATTN: Recreational Renaissance Rules

P.O. Box 621

Honolulu, HI 96809

E-mail: RecreationalReniassance@hawaii.gov

- The address is also noted in the Notice of Public Hearing.

DECISION MAKING ON PROPOSAL

- The Department will consider your input tonight and other testimonies received by November 19, 2009.
- If the Department makes no substantive changes to the rule, we will bring the matter before the Board of Land and Natural Resources at one of their future public meetings for their consideration.
- Tentatively the Department may submit rules for consideration to the December 11, 2009 Board Meeting.

- The Department will request the Attorney General's office review of any changes to the proposed rules to determine if there are any substantive changes.
- If the changes are substantive, the Department will conduct another round of public hearings on the proposed rules with the changes.
- After Board of Land and Natural Resources approval, the Department submits the rule amendments in standard format for Governor's final approval to adopt the rules.
- Once signed by the Governor rules are transmitted for filing at the Lt. Governor's Office.
- Adopted rules take effect 10 days after filing with the Lt. Governor's Office.

Thank you all for coming tonight and thank you for your comments.

This public hearing is adjourned.

Time: _____ p.m.